

Kentucky Tax Alert



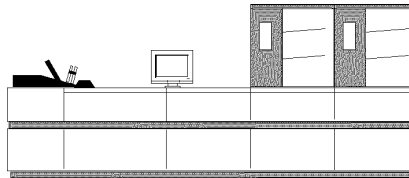
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Scanning and Imaging System Scheduled to Go Online in September

Phase I of KRC's scanning and imaging system for tax returns is scheduled for implementation in September 1999. Included in the phase I implementation are sales and use tax, consumer use tax, and withholding tax returns, and associated payments. This new return and remittance processing system uses scanning and imaging, automated data capture, sophisticated workflow, and power encoding technologies to more efficiently process these documents.

This system allows KRC to offer improved service to taxpayers. Images of the documents processed through the system will be available online for viewing by KRC employees, allowing immediate access to necessary information during taxpayer service calls.

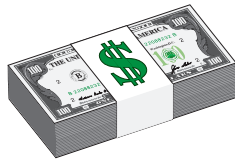


The system also enhances KRC's electronic commerce capabilities. Although implementation dates for all of these services are not finalized, the system will provide expanded methods for electronic funds transfer and new methods of filing returns electronically. These methods include filing and paying via telephone, both touch-tone and voice, as well as Internet filing capabilities. More information will be provided as plans for implementation of these services are finalized.

Form design is a critical issue for the success of the system. KRC is making significant changes to the forms to be processed in phase I. Taxpayers will receive information related to these changes prior to implementation.

PSC Rate Set for Fiscal Year 1999-2000

The Public Service Commission's (PSC) annual maintenance assessment rate for Fiscal Year 1999-2000 is 1.667 mils for each \$100 of gross intrastate receipts. This millage rate funds the PSC's anticipated operations.



The rate is set each year by the Finance and Administration Cabinet and takes effect each July 1. The minimum assessment, according to KRS 278.130, is \$50. Billings are issued by KRC and payments are due on or before July 31 of each year. The penalty for failure to pay the assessment is \$1,000 plus \$25 per day for each day overdue, pursuant to KRS 278.990(3).

Intrastate business conducted by jurisdictional utilities in Kentucky during the preceding calendar year is the basis for the assessment.

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New Taxpayer Service Programs Are Successful

During the individual income tax filing season, KRC offered two new forms of taxpayer assistance. Both programs proved successful and were used by many of Kentucky taxpayers to receive help with filing their 1998 individual income tax returns.

Taxpayer service centers (TSCs) in Ashland, Northern Kentucky, and Owensboro were open on April 10, 1999, which was the Saturday before the filing deadline of Thursday, April 15, 1999.

The three TSCs provided assistance to 152 taxpayers who made telephone calls, and 126 taxpayers who visited the field offices. In addition, the



TSCs also accepted several returns from taxpayers who chose to file the returns in person, rather than through the mail.

On filing day, April 15, 1999, TSCs in Hopkinsville, Lexington, and Louisville provided taxpayer assistance at the post offices in those cities. Representatives from those TSCs provided assistance to more than 150 taxpayers, and accepted more than 130 completed returns from taxpayers who chose to file in person.

These programs were very successful and KRC is considering repeating them next year.

Corporation License Tax Regulation Delayed

Regulation 103 KAR 20:020, which defines terms and explains the computation of capital employed, was initially scheduled to become final in June. However, the regulation must be refiled with the Administrative Regulation Review Subcommittee of the Legislative Research Commission in July, and a public hearing on the regulation will be held in late August. The earliest the regulation can take effect is in early October. As drafted, the regulation will be effective for returns filed for taxable periods beginning after Dec. 31, 1999.

If you have questions regarding this regulation, contact Paul Jones of the Division of Tax Policy at (502) 564-6843.

Corporate Annual Reports Due in Secretary of State's Office

Annual reports for all corporations and limited liability companies were due to be submitted to the office of the Secretary of State on June 30, 1999. The office of the Secretary of State may send the organization a reminder notice if the annual report is not filed. Failure to timely file the annual report may result in administrative dissolution of a domestic corporation or limited liability company; or revocation of the certificate of authority of a foreign corporation or a foreign limited liability company.

Direct questions concerning the filing of these annual reports to the Secretary of State's office at (502) 564-3490.



KRC Offices Closed Sept. 6 for Labor Day

Pursuant to KRS 18A.190, all KRC offices are closed on Monday, Sept. 6, 1999, in observance of Labor Day.

State Real Property Tax Rate Set

The 1999 state real property tax rate has been set at 14.8 cents per \$100 of assessed value. Under House Bill 44, the rate must be reviewed each year and adjusted to ensure that no more than a 4 percent cumulative increase in revenues is realized over the previous year. Last year's rate was 15.3 cents.

The establishment of the 1999 tax rate enables those counties certified by KRC to proceed with tax bill preparation once the local rates are set.



Income Reporting Requirements for Limited Liability Companies

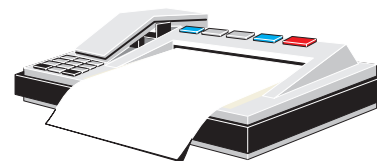
Under KRS 141.208, a limited liability company (LLC) is treated for Kentucky income tax purposes in the same manner as it is treated for federal income tax purposes. Reports of income for limited liability companies may be filed as a corporation, partnership, or proprietorship, dependent upon how the income is reported for federal income tax purposes.

In order to record the type of ownership used to report income from limited liability companies, the Kentucky Tax Registration Application, Form 10A100, has a line for *other* type ownership, on page 4, section 6, item 1. The *other* line on the registration application should be completed by entering whether the limited liability company is a single-member or multi-member LLC and the tax treatment that has been elected with the Internal Revenue Service.

KRC Accepts Faxed Copies of Form 10A100

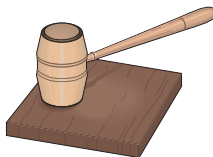
KRC's Business Registration Section will, upon request, fax a copy of Form 10A100, Kentucky Tax Registration Application for Withholding, Corporation, Coal, Sales and Use Taxes, to taxpayers wishing to complete and return the form. KRC also accepts faxed copies of the completed application.

To request a copy of the application form, contact the Business Registration Section at (502) 564-3306, or download it from KRC's Online Taxpayer Service Center at <http://www.state.ky.us/agencies/revenue>. Completed applications may be faxed to KRC at (502) 227-0772.



Court Case Updates

Individual Income Tax—In ***Alvin and Sandra Kolak v. Revenue Cabinet***, K97-R-25, the taxpayer, Mr. Kolak, had been an employee of the Internal Revenue Service from 1959 to 1995, working in a number of different states. During this time, he accumulated 1,631 hours of unused annual leave. When he retired in March of 1995, while a resident of Kentucky, he received a lump-sum payment of \$86,998 as compensation for this accrued annual leave.



Mr. Kolak and his wife left Kentucky in September 1995. They originally reported the entire \$86,998 lump-sum payment as income on their 1995 Kentucky individual income tax return. They later filed an amended return, seeking a refund on the theory that only 93 of the annual leave hours for which the lump-sum payment had been received were earned while Mr. Kolak was a resident of Kentucky.

Because the Kolaks were cash method taxpayers and the entire \$86,998 was received by the Kolaks during the time they were Kentucky residents, KRC disallowed their claim for refund.

In a decision rendered on May 17, 1999, the Kentucky Board of Tax Appeals (KBTA) upheld KRC's denial of the Kolaks' claim for refund. The KBTA ruled that under KRS 141.050(1) the federal income tax rules on accounting methods to be used by taxpayers governed this case. The Kolaks were cash method taxpayers and thus were required to pay Kentucky income tax on the entire lump-sum payment in the year

it was received. The KBTA further held that "[t]he fact that the Kolaks were part-year residents in 1995 does not change the Board's conclusion, since they were Kentucky residents when they received the lump sum payment."

The Kolaks have appealed the KBTA decision to the Franklin Circuit Court.

Sales and Use Tax—In ***LWD, Inc. and LWD Equipment, Inc. v. Revenue Cabinet***, K97-R-21, sales tax was assessed by KRC for the taxpayer's leases of equipment to related corporations during the period Dec. 1, 1987, through Sept. 30, 1991. The taxpayer claimed that these transactions were exempt as occasional sales under KRS 139.070 and 139.470(4).

In a decision rendered on May 10, 1999, the KBTA upheld KRC's assessment. Sales at retail are taxable and leases are treated under the sales and use tax statutes as sales at retail. The occasional sale exemption set forth in KRS 139.070(1)(a) did not apply because the leases in question were of property held by the taxpayer in the course of an activity for which it was required to hold a seller's permit (i.e., leasing of tangible personal property). The occasional sale exemption provision of KRS 139.079(1)(b) did not apply either, the KBTA ruled, because none of the leases in question transferred all or substantially all of the taxpayer's property held or used in the course of the activity for which it was required to hold a seller's permit.

The taxpayer has appealed the KBTA decision to the Franklin Circuit Court.

District Judges Asked to Accept Affidavit of Exemption for Inheritance Taxes

On June 18, 1999, KRC Secretary Sarah Jane Schaaf sent a memo to district court judges in Kentucky, requesting that they accept an *Affidavit of Exemption* instead of requiring an inheritance and estate tax return acceptance letter for the final settlement and closing of the administration of an estate. Use of the *Affidavit of Exemption* will ease the administration of estates which do not owe any Kentucky death tax and are not required to file a federal Estate and Gift Tax Return. The affidavit should be used only when the entire estate passes to nontaxable beneficiaries and the value of the estate is less than the federal unified credit exemption equivalent. Using this affidavit will eliminate expenditures of time and money for the preparation and review of inheritance and estate tax returns.

Filing the single *Affidavit of Exemption*, rather than a no tax due inheritance and estate tax return, is another KRC *EMPOWER Kentucky* initiative to relieve taxpayers of the burden of filing unnecessary paperwork.

The *Affidavit of Exemption* may be obtained at KRC's Online Taxpayer Service Center at <http://www.state.ky.us/agencies/revenue/inheritancetaxforms.htm>.

For more information, contact the Inheritance and Estate Tax Section at (502) 564-4810.

KRC Secretary Sarah Jane Schaaf Named to FTA Board

KRC Secretary Sarah Jane Schaaf has been appointed to fill an unexpired one-year term on the Federation of Tax Administrators' (FTA) board of trustees.

FTA, a national organization founded in 1937, serves as a source of information and expertise for state tax authorities and administrators. It monitors the workings of state tax agencies and systems as well as issues generally affecting tax policy and administration. The work of FTA is directed and governed by a 15-member board of trustees composed of tax administrators representing all regions of the country. It is in this capacity that Secretary Schaaf will be representing Kentucky on the board.

Schaaf was appointed KRC Secretary by Governor Paul Patton in February 1998. She has over 20 years of experience in finance and investment planning. She is a certified financial planner and a graduate of Northwestern University.

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Comments, suggestions and mailing list additions or corrections should be addressed to the Public Information and Communication Services Branch, Revenue Cabinet, Station 14, Frankfort, Kentucky 40620, (502) 564-4592.

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Kentucky Revenue Cabinet
 Mission Statement

To provide courteous, accurate and efficient services for the benefit of Kentucky and its citizens, and administer the tax laws of the Commonwealth in a fair and impartial manner.

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